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6 Attorneys for Nominal Defendant
Tenet Healthcare Corporation
7
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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION
12

13 In re TENET HEALTHCARE
14 CORPORATION DERIVATIVE
LITIGATION

CASE NO. CV-03-11 RSWL (RZx)
(Derivative Action)

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16 This Document Relates To:
17 ALL ACTIONS.
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STIPULATION AND [PROPOSED]
ORDER FOR DISMISSAL WITH
PREJUDICE

STIPULATION AND [PROPOSED] ORDER FOR DISMISSAL WITH PREJUDICE

1 WHEREAS, on January 12, 2006 the parties to a parallel derivative action then
2 pending in the Superior Court for Santa Barbara County, *In re Tenet Healthcare*
3 *Corporation Derivative Litigation*, Case No. 01098905 (the "State Derivative
4 Action") entered into a stipulation of settlement (the "State Court Settlement");

5 WHEREAS, on May 4, 2006 the Superior Court for Santa Barbara County
6 approved the State Court Settlement, which forever discharged, relinquished, and
7 released "any and all claims ... relating in any way to any allegations ... that have
8 been or could have been or could be asserted in any forum by any Plaintiff, Tenet, or
9 any Person derivatively on behalf of Tenet ... which arise out of or relate in any way
10 to any of the ... acts ... which were alleged in this Litigation [or] could have been
11 alleged in this Litigation..." (the "Release");

12 WHEREAS, defendants in this action indicated they intended to use the State
13 Court Settlement to seek dismissal of the underlying claims asserted in this action and
14 plaintiffs in this action indicated they intended to appeal the State Court Settlement to
15 seek attorneys' fees in the State Court Action;

16 WHEREAS, on July 5, 2006 this Court ordered discovery and motion practice
17 in this action suspended pending the final resolution and appellate review of the State
18 Derivative Action and Settlement;

19 WHEREAS, on July 6, 2006 Plaintiffs in this action noticed an appeal of the
20 State Court Settlement to the California Court of Appeals seeking attorneys' fees in
21 connection with the State Derivative Action (the "Appeal");

22 WHEREAS, after full briefing and oral argument on the Appeal, on September
23 20, 2007 the California Court of Appeal, Second Appellate Division, denied the
24 Appeal and affirmed the State Court Settlement;

25 WHEREAS, the time to petition the denial of the Appeal to the California
26 Supreme Court has expired and Plaintiffs have indicated they do not intend to seek
27 such a review; and

1 WHEREAS, the Release in the State Court Settlement encompasses the claims
2 in this action.

3 NOW THEREFORE, it is STIPULATED, AGREED, AND ORDERED,
4 subject to approval of the Court, as follows:

5 1. This action and all claims herein are hereby DISMISSED WITH
6 PREJUDICE.

7 2. Plaintiffs and defendants shall each bear their own attorneys' fees and
8 costs incurred in connection with this action.

9
10 Dated: April 21, 2008

SKADDEN, ARPS, SLATE, MEAGHER &
FLOM, LLP

11
12 By: /s/ Harriet S. Posner

13 Harriet S. Posner

14 Attorneys for Tenet Healthcare

15
16 Dated: April 21, 2008

KIRKLAND & ELLIS LLP

17
18 By: Michael S. McCauley (w/ permission)

19 Michael S. McCauley

20 Attorneys for Michael Focht

1 ~~April 18~~
2 Dated: ~~March~~, 2008

CHRISTENSEN GLASER FINK JACOBS WEIL
& SHAPIRO

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4 By: Patricia Glaser (w/permission)
5 Patricia Glaser
6 Terry Christensen
7 Sean Riley

Attorneys for Jeffrey C. Barbakow

8 ~~April 18~~
9 Dated: ~~March~~, 2008

BIRD, MARELLA, BOXER, WOLPERT,
NESSIM, DROOKS & LINCENBERG

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11 By: Mark T. Drooks (w/permission)
12 Mark T. Drooks

13 Attorneys for Thomas B. Mackey

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15 ~~April 18~~
Dated: ~~March~~, 2008

ARNOLD & PORTER LLP

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17 By: Matthew Heartney (w/permission)
18 Matthew Heartney

19 Attorneys for Bernice Bratter, Sanford
20 Cloud, Maurice DeWald, Van Honeycutt,
21 Robert Kerrey, and Lester B. Korn

22
23 Dated: March , 2008

THE BRUALDI LAW FIRM

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25 By: _____
26 Richard B. Brualdi

27 Attorneys for Plaintiffs

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2 Dated: March , 2008

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10 Dated: March , 2008

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13 By: _____
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16 Dated: March 21, 2008

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18 By: 
19 Marcus Neil Bozeman

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22 Dated: March , 2008

GIBSON DUNN & CRUTCHER LLP

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24 By: _____
25 Daniel S. Floyd

26 Attorneys for Raymond L. Mathiasen and
27 Christi R. Sulzbach

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5 Dated: March , 2008

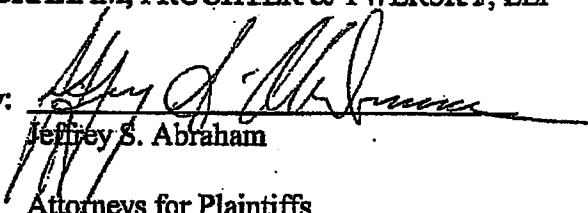
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22 Dated: ~~March~~ ^{April 18}, 2008

GIBSON DUNN & CRUTCHER LLP

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25 Daniel S. Floyd

26 Attorneys for Raymond L. Mathiasen and
27 Christi R. Sulzbach

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Skadden, Arps, Slate, Meagher & Flom, LLP, 300 S. Grand Ave., Los Angeles, CA 90071.

On April 21, 2008, I served the foregoing document(s) described as:

STIPULATION FOR DISMISSAL WITH PREJUDICE

on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as set forth on the attached service list:

☒ **[U.S. Mail]** By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth herein. I am familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business.

☐ **[Personal Service]** I caused these document(s) to be personally served in such envelope by hand to the person at the address set forth below in the attached service list:

☐ **[Facsimile]** By transmitting via facsimile, the document(s) listed above to the fax number(s) set forth herein on this date. I am aware that service is presumed invalid unless the transmission machine properly issues a transmission report stating the transmission is complete and without error.

☐ **[Federal Express]** By placing the document(s) listed above in a sealed overnight courier enveloped as set forth herein and routing the envelope for pick up within Kirkland & Ellis LLP by Federal Express. I am familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business.

☒ **[Federal]** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed April 21, 2008, at Los Angeles, California.

/s/ Harriet S. Posner
Harriet S. Posner

Service/Mailing list

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